

transferred to the minimum required to meet a State's actual and immediate cash needs.

(c) A State must not draw down funds from its account in the Unemployment Trust Fund (UTF) or from a Federal account in the UTF in advance of actual immediate cash needs for any purpose including maintaining a compensating balance.

(d) A Federal Program Agency must allow a State to submit requests for funds daily. This requirement should not be construed as a change to Federal Program Agency guidelines defining a properly completed request for funds.

(e) In accordance with the electronic funds transfer provisions of the Debt Collection Improvement Act of 1996 (31 U.S.C. 3332), a Federal Program Agency must use electronic funds transfer methods to transfer funds to States unless a waiver is available.

§ 205.12 What funding techniques may be used?

(a) We and a State may negotiate the use of mutually agreed upon funding techniques. We may deny interest liability if a State does not use a mutually agreed upon funding technique. Funding techniques should be efficient and minimize the exchange of interest between States and Federal agencies.

(b) We and a State may base our agreement on the sample funding techniques listed in paragraphs (b)(1) through (b)(5) of this section, or any other technique upon which both parties agree.

(1) Zero balance accounting means that a Federal Program Agency transfers the actual amount of Federal funds to a State that are paid out by the State each day.

(2) Projected clearance means that a Federal Program Agency transfers to a State the projected amount of funds that the State pays out each day. The projected amount paid out each day is determined by applying a clearance pattern to the total amount the State will disburse.

(3) Average clearance means that a Federal Program Agency, on the dollar-weighted average day of clearance of a disbursement, transfers to a State a lump sum equal to the actual amount

of funds that the State is paying out. The dollar-weighted average day of clearance is the day when, on a cumulative basis, 50 percent of the funds have been paid out. The dollar-weighted average day of clearance is calculated from a clearance pattern, consistent with § 205.20.

(4) Cash advance (pre-issuance or post-issuance) funding means that a Federal Program Agency transfers the actual amount of Federal funds to a State that will be paid out by the State, in a lump sum, not more than three business days prior to the day the State issues checks or initiates EFT payments.

(5) Reimbursable funding means that a Federal Program Agency transfers Federal funds to a State after that State has already paid out the funds for Federal assistance program purposes.

§ 205.13 How do you determine when State or Federal interest liability accrues?

(a) State or Federal interest liability may or may not accrue when mutually agreed to funding techniques are applied, depending on the terms of the Treasury-State agreement.

(b) We and a State may agree in a Treasury-State agreement that no State or Federal interest liability will accrue for indirect costs or indirect allocated costs based on an indirect cost rate. This indirect cost must be consistent with OMB Circular A-87 (For availability, see 5 CFR 1310.3.) and be in accordance with this subpart A. The indirect cost rate may be a Statewide indirect cost rate or a public assistance cost rate, where appropriate.

§ 205.14 When does Federal interest liability accrue?

(a) Federal interest liabilities may accrue in accordance with the following provisions:

(1) The Federal Program Agency incurs interest liability if a State pays out its own funds for Federal assistance program purposes with valid obligational authority under Federal law, Federal regulation, or Federal-State agreement. A Federal interest liability will accrue from the day a

§ 205.15

State pays out its own funds for Federal assistance program purposes to the day Federal funds are credited to a State bank account.

(2) If a State pays out its own funds for Federal assistance program purposes without obligational authority, the Federal Program Agency will incur an interest liability if obligational authority subsequently is established. However, if the lack of obligational authority is the result of the failure of the State to comply with a Federal Program Agency requirement established by statute, regulation, or agreement, interest liability may be denied. A Federal interest liability will accrue from the day a State pays out its own funds for Federal assistance program purposes to the day Federal funds are credited to a State bank account.

(3) If a State pays out its own funds prior to the day a Federal Program Agency officially notifies the State in writing that a discretionary grant project is approved, the Federal Program Agency does not incur an interest liability, notwithstanding any other provision of this section.

(4) If a State pays out its own funds prior to the availability of Federal funds authorized or appropriated for a future Federal fiscal year, the Federal Program Agency does not incur an interest liability, notwithstanding any other provision of this section.

(5) If a State fails to request funds timely as set forth in § 205.29, or otherwise fails to apply a funding technique properly, we may deny any resulting Federal interest liability, notwithstanding any other provision of this section.

(b) Federal Program Agency programs that have specific payment dates set by the Federal Program Agency that create interest liabilities are subject to this part.

(c) States must adhere to Federal Program Agency disbursement schedules when requesting funds. Notwithstanding any other provision of this section, we may deny a State's claim for Federal interest liability for the period prior to a late drawdown request. States must time their funds drawdown so that it does not create Federal interest liability. The drawdown request must allow the Federal Program Agen-

31 CFR Ch. II (7–1–10 Edition)

cy sufficient time to meet its disbursement schedule. If the Federal Program Agency does not make a timely payout in accordance with the terms of the Treasury-State agreement, a State may submit a claim for interest liability.

§ 205.15 When does State interest liability accrue?

(a) *General rule.* State interest liability may accrue if Federal funds are received by a State prior to the day the State pays out the funds for Federal assistance program purposes. State interest liability accrues from the day Federal funds are credited to a State account to the day the State pays out the Federal funds for Federal assistance program purposes.

(b) *Refunds.* (1) A State incurs interest liability on refunds of Federal funds from the day the refund is credited to a State account to the day the refund is either paid out for Federal assistance program purposes or credited to the Federal government.

(2) We and a State may agree, in a Treasury-State agreement, that a State does not incur an interest liability on refunds in refund transactions under \$50,000.

(c) *Exception to the general rule.* A State does not incur an interest liability to the Federal government if a Federal statute requires the State to retain or use for Federal assistance program purposes the interest earned on Federal funds, notwithstanding any other provision in this section.

(d) *Mandatory matching of Federal funds.* In programs utilizing mandatory matching of Federal funds with State funds, a State must not arbitrarily assign its earliest costs to the Federal government. A State incurs interest liabilities if it draws Federal funds in advance and/or in excess of the required proportion of agreed upon levels of State contributions in programs utilizing mandatory matching of Federal funds with State funds.

§ 205.16 What special rules apply to Federal assistance programs and projects funded by the Federal Highway Trust Fund?

The following applies to Federal assistance programs and projects funded